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**THIS DISPOSITION
IS NOT CITABLE AS PRECEDENT
OF THE T.T.A.B.**

Paper No. 19
TJQ

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re The Hermitage Group, Inc.

Serial No. 75/533,137

Request for Reconsideration

Anthony S. Zummer of Palmatier & Zummer for applicant.

Lynn A. Luthey, Trademark Examining Attorney, Law Office
102 (Thomas Shaw, Managing Attorney).

Before Quinn, Holtzman and Drost, Administrative Trademark
Judges.

Opinion by Quinn, Administrative Trademark Judge:

The Board, in a decision dated January 15, 2002,
affirmed the refusal to register under Section 2(a) of the
Trademark Act on the ground that applicant's mark falsely
suggests a connection with an institution, namely the
Hermitage Museum in St. Petersburg, Russia. The Board
found that the mark sought to be registered is a close
approximation of the name of the art museum in Russia, and

that the mark would be recognized as such. In making its determination, the Board recognized that the term "Hermitage" has a variety of meanings. Notwithstanding these other meanings, the mark sought to be registered must be considered as a whole and, in this case, the design of an artist's palette and brushes reinforces the mark's identification with the renowned art museum. The Board pointed out that the other meanings of the term "hermitage" have nothing to do with art and, thus, the only "person" or "institution" which the mark HERMITAGE with an artist's palette and brushes design possibly identifies is the Hermitage Museum.

Applicant has timely filed a request for reconsideration. Applicant takes the opportunity to respond to the encyclopedia evidence of which the Board took judicial notice in its decision. Applicant points to alleged different translations (Russian to English) of the name of the museum and posits that the name of the museum in English is "amorphous."

Applicant's arguments merely reiterate the ones already made but found to be unpersuasive. As pointed out by the Board, the English language version of the museum's own website translates the name of the museum as "The State

Hermitage Museum," and the site includes references to the museum as "The Hermitage."

Applicant also accuses the Board of speculation when the Board indicated that the mark falsely suggests that applicant's printed art reproductions are of art displayed in the Hermitage, or of artists who have some of their works displayed in the museum or are of artists schooled at the Hermitage. The Board finds it curious that applicant has not denied the above finding. Thus, the Board remains of the view that the mark is likely used in connection with printed art reproductions that are, for example, of works by artists trained in St. Petersburg's Hermitage Museum.

Applicant's request for reconsideration is denied. The decision dated January 15, 2002 stands.